ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application of SBC Communications Inc.	)	CC Docket No. 00-04
Pursuant to Section 271 of the	)	
Telecommunications Act of 1996	)	
To Provide In-Region, InterLATA Services	)	
In Texas	)	

COMMENTS OF THE

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SUMMARY

As evidenced by the Commission's previous Section 271 orders, approval to provide in-region, interLATA services was not meant to be easy or automatic. SBC Communications Inc. and its subsidiaries Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance (collectively, "SWBT") have made undeniable progress toward removing legal and regulatory barriers to competition in the local market. However, SWBT's progress toward removing the *operational* barriers to competition is less significant, and falls short of the truly pro-competitive environment required for Section 271 approval. Because SWBT has not fully implemented the processes and procedures necessary to support a working competitive environment, the Commission cannot at this time approve SWBT's application for Texas. Accordingly, CompTel urges the Commission to deny the application and to require SWBT to correct the problems discussed below.

SWBT has not satisfied the requirements of Section 271's Competitive Checklist in several material ways. First, SWBT's *process* for providing combinations of network elements unlawfully tears apart pre-existing combinations of elements and, as a result, subjects CLECs and their customers to a variety of service disruptions ranging from loss of dialtone, to improper presubscription selections, to the failure of vertical features. As the experience of CompTel members Network Intelligence, Inc., CapRock Communications, Inc. and numerous other CLECs demonstrates, SWBT violates the Act and impedes competitive entry by unlawfully separating and then re-combining network elements to form the UNE Combo. Moreover, SWBT does so even though other ILECs provide UNE Combos through "as is" migrations, which eliminate most of the potential problems competitors are encountering in Texas.

Second, SWBT is unable to provision local interconnection trunks on a timely basis. As CompTel members NTS Communications and CapRock Communications describe, they have fully complied with SWBT's interconnection ordering procedures and timely and accurately forecasted trunk demand, yet SWBT often denies the requested interconnection trunks due to a lack of facilities. Moreover, this failure is widespread in Texas, not isolated to any particular city. Because SWBT cannot provide local interconnection trunks on a prompt and reliable basis, it has not satisfied the requirements of Checklist Item 1.

Third, SWBT does not execute hot cuts using its "frame due time" option on a consistent or reliable basis. CompTel member companies report that SWBT often is days *early* in performing the cutover, subjecting customers to service outages and headaches. These premature cutovers occur as often as 30 percent of the time, and have forced one small CLEC to reduce its capacity of orders by *50 percent* just to accommodate the myriad of SWBT errors that are made.

In addition to failing to satisfy the competitive aspects of the Checklist, SWBT's application does not satisfy the public interest standard because it contains inadequate assurances that post-entry enforcement will be swift and effective. CompTel applauds the Commission's previously articulated concern for post-entry enforcement of the Act, but respectfully submits that the Commission has not gone far enough to ensure that enforcement will be swift or effective. CompTel urges the Commission to use its authority to adopt conditions ensuring that any decline in SWBT's performance once Section 271 is fully satisfied can be remedied through predictable and sufficient enforcement mechanisms. Specifically, CompTel believes that post-entry enforcement should include a *federal* performance monitoring plan (with penalties to CLECs), a non-exhaustive list of circumstances likely to lead to suspension of authority or large

monetary penalties, and specific presumptions or elements of proof that may be used in carrier-initiated complaint proceedings. These elements will promote competition in local markets and provide all parties with swift and predictable enforcement mechanisms.

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COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, hereby submits these comments in response to the Application by SBC Communications Inc. and its subsidiaries, Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance (collectively, "SWBT") to provide in-region, interLATA services in the State of Texas.[1]

I. INTRODUCTION

For over 19 years, CompTel has been the principal national industry association representing competitive telecommunications carriers. Throughout its history, CompTel has advocated policies and rules to promote the development of competition in an ever-expanding number of telecommunications markets, including telecommunications equipment, information services, long distance services, and, accelerating with the 1996 Act, local telecommunications

[1] Brief in Support of Application by Southwestern Bell for Provision of In-Region, InterLATA Services in Texas, CC Docket No. 00-4, filed Jan.10, 2000 ("SWBT Brief"); *see Public Notice*, DA 00-37 (rel. Jan. 10, 2000).

services. It is CompTel's fundamental policy mandate to see that competitive opportunity is maximized for *all* its members, both today and in the future.

The 1996 Act demands no less. As evidenced by the Commission's previous denials of Section 271 applications, approval to provide in-region, interLATA services was not meant to be easy or automatic. Section 271 is a rigorous process designed to determine whether the BOC has fully and irreversibly opened its market to competition and whether its processes and provisioning of network elements are actually providing just and nondiscriminatory treatment of all carriers. Critically, elimination of the legal and regulatory barriers to competition has proven much easier than developing the processes and procedures necessary to support a working competitive environment. Only when all of the operational barriers are addressed can local markets function to bring vigorous competition that will benefit all consumers, large and small, in the form of lower prices, technological innovation and added value. While CompTel's members welcome the participation of SWBT in the broad markets to be made available by these market opening initiatives, the conditions for that competition must be established first.

The Commission correctly has focused on the elimination of these operational barriers to full competition. As the Commission has recognized, a "vital" role is played by a combination of several elements relating to a BOC's compliance with Section 271's standards: (i) "rigorous state proceedings" to modify and test a BOC's capabilities, (ii) clearly articulated business rules communicated to CLECs and rigorously followed by the BOC, (iii) "independent third party testing," and (iv) "consistent and meaningful" performance data demonstrating that the BOC is capable of provisioning interconnection and network elements reliably and consistently in commercial volumes. *See In the Matter of Application of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA*

Service in the State of New York, Memorandum Opinion and Order, CC Docket No. 99-295, ¶¶ 8, 11 (rel. Dec. 22, 1999) ("*Bell Atlantic New York Order*"). The Commission stated it must apply these factors in a "pragmatic fashion," guided by its experience with the difficulties facing new entrants, and should weigh the totality of these factors before reaching a conclusion as to the BOC's compliance. *Id.*, ¶¶ 5, 8. It is important that the Commission give these factors strict scrutiny, and ensure that each meaningfully contributes to the satisfaction of Section 271's requirements.

In the wake of the Commission's recent approval order in the *Bell Atlantic New York* proceeding, SWBT not surprisingly asserts many parallels between its performance in Texas and the record in the New York case. However, despite the Texas Commission's commendable leadership in obtaining SWBT compliance with its obligations, SWBT still has not satisfied Section 271's standard in several important respects. First, SWBT's *process* for providing combinations of network elements unlawfully tears apart pre-existing combinations of elements and, as a result, subjects CLECs and their customers to a variety of service disruptions ranging from loss of dialtone, to improper presubscription selections, to the failure of vertical features. Second, SWBT is unable to provision local interconnection trunks on a timely basis. Third, SWBT does not execute hot cuts using its "frame due time" option on a consistent or reliable basis.

As shown below, these deficiencies are occurring in the real world, with a variety of CompTel carriers, in all areas of the state. Over 35 of CompTel's members are providing or preparing to provide local service within Texas, at varying stages of entry at this time. The extensive experience of the CompTel membership in Texas confirms that, while SWBT has made significant progress, it still has not created the environment where competition can thrive.

Moreover, even after SWBT has complied with Section 271's standards, there are not adequate safeguards in place to ensure that post-entry deficiencies in SWBT's performance will be remedied swiftly and effectively. Therefore, CompTel urges the Commission to adopt rigorous anti-backsliding measures to facilitate post-entry enforcement of the Act's interconnection obligations.

Until SWBT can correct the remaining operational problems still occurring in Texas, and until adequate post-entry enforcement mechanisms are detailed, the Commission should not approve SWBT's Section 271 Application.

II. SWBT'S THREE STEP PROCESS FOR CONVERTING UNE COMBINATIONS IS UNLAWFUL AND CAUSES SIGNIFICANT CUSTOMER DISRUPTIONS

Item 2 of the Competitive Checklist requires SWBT to provide "nondiscriminatory access to network elements in accordance with the requirements of Sections 251(c)(3) and 252(d)(1)." 47 U.S.C. § 271(c)(2)(B)(ii). Section 251(c)(3) requires SWBT to, among other things, provide access to network elements in a manner that allows requesting carries to use them in combination to provide any telecommunications service. *See* 47 U.S.C. § 251(c)(3); 47 C.F.R. § 51.315(b).

In previous Section 271 orders, the Commission has emphasized that the ability of requesting carriers to access combinations of network elements is "integral to achieving Congress' objective of promoting competition in local telecommunications markets." *Bell Atlantic New York Order*, ¶ 230; *see also In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, To Provide In-Region, InterLATA Services in Michigan*, Memorandum Opinion and Order, 12 FCC Rcd 20543, ¶ 332-33 (1997) ("*Ameritech Michigan Order*"). Indeed, in the recent *UNE Remand Order*, the

Commission reiterated that Section 51.315(b) of its rules prohibits ILECs from separating pre-existing combinations of UNEs, except upon the carrier's request. *See In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Notice of Proposed Rulemaking, CC Docket 96-98, FCC 99-238, ¶ 475 (rel. Nov. 5, 1999) ("*UNE Remand Order*").

Although SWBT offers a combination of loop/switching and transport referred to as a "UNE Combo" order, the *process* by which it does so violates Rule 315(b) and unlawfully discriminates against competitors. Rather than migrating service to UNEs "as is" (as the Act requires), SWBT unlawfully tears down pre-existing combinations and replaces them with service that often fails to function as it did previously. As discussed more fully below, because SWBT imposes a 3-step "tear down and reconstruct" approach, its provisioning of the UNE Combo directly violates the Act and subjects customers of competitive carriers to significant disruptions in service ranging from improperly functioning service to a complete service outage.

More specifically, SWBT asserts in its Brief that it provides access to pre-combined network elements to all requesting carriers. SWBT Brief at 37; Auinbauh Aff. ¶¶ 88-89. However, SWBT does not provide access in a manner which complies with Section 251(c)(3) or FCC Rule 315(b). As explained in the attached affidavits, SWBT does *not* permit an "as is" migration of either simple or complex services to a UNE Combo. *See* Affidavit of Richard E. of Network Intelligence, Inc., ¶ 10 ("Burk Aff.") (appended hereto as Exhibit A); Affidavit of Jere Thompson of CapRock Communications Corp., ¶ 26 ("Thompson Aff.") (appended hereto as Exhibit B). Instead, SWBT imposes a 3-step "tear down and reconstruct" approach to UNE Combo conversions. *See* Burk Aff., ¶ 11; Thompson Aff., ¶ 24. Under this process, when a CLEC submits a request for a UNE Combo for an existing service, SWBT separates the request

into three separate orders. *See id.*; *see also*, SWBT, Ham Aff. ¶ 197 (describing UNE Combo conversion process). First, a "disconnect" (or "D") order is created, instructing SWBT's systems to disconnect the service presently installed at the location. Second, a "new" (or "N") order is created, instructing SWBT's systems to install new service to the location. The "N" order is installed per the information supplied by the CLEC on its Local Service Request ("LSR"), which is in turn populated with data obtained from the subscriber's customer service record ("CSR"). Finally, a "change" (or "C") order is created, instructing SWBT's system to modify the billing on the line to UNE billing. *See* Burk Aff., ¶ 11: Thompson Aff., ¶ 24.

SWBT's separation of a UNE Combo into three orders is unlawful as it directly contravenes Rule 315(b), which states that, except upon request, an incumbent LEC "shall not separate requested network elements that the incumbent LEC currently combines." 47 C.F.R. § 51.315(b). The Supreme Court specifically affirmed this rule, stating that it was "entirely reasonable" for the Commission to prohibit ILEC efforts to "sabotage network elements that are provided in discrete pieces."[2] Providing UNEs on an unbundled basis, the Court held, did not justify physically separating previously connected network elements "not for any productive reason, but just to impose wasteful reconnection costs on new entrants."[3]

Yet, although SWBT does not physically separate a loop from the switch, it does separate these elements on functional basis by deleting the existing switch programming associated with the line and replacing it with "new" service reconstructed according to the CLEC's service order. This process *disconnects* the existing service configuration (and the UNEs used to provide it), to

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2 *AT&T Corp. v. Iowa Util. Bd.*, 119 S. Ct. 721, 737 (1999).

3 *Id.* at 737-38.

be replaced with a *new* configuration established by the CLEC. As a result, any combination of network elements currently established to provide service is deleted and is lost completely.[4]

SWBT easily could provide access to UNE combinations as they are currently connected simply by providing an "as is" conversion option. Indeed, this is the way that Bell Atlantic provides UNE combinations in New York.[5] By failing to provide this option, however, SWBT unlawfully separates network elements and raises the costs and risks to CLECs in providing service to their customers.

In addition to being expressly prohibited by the Act and the Commission's rules, SWBT's 3-step "tear down and reconstruct" approach is inherently discriminatory. As described above, SWBT reconstructs service to the customer based upon the specifications of the "N" order. This new service is fundamentally different than before, as the old instructions are deleted and replaced by instructions that are intended to match the old, but sometimes do not because the data on the CSR maintain by SWBT does not reflect the services presently being provided. As a result, all risk that the service is not re-configured exactly to match the previous service is shifted to the CLEC and its customer, who is often placed out of service or receives service inferior to that which had previously been established and yet have no ability to affect the CSR data maintained by SWBT.

These disruptions manifest themselves in several ways. First, although SWBT claims that its systems are designed to link these orders so that the disconnect (or "D") order is not

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4 Although SWBT does execute an "N" order apparently intended to reconstruct service to its original configuration, the experience of CompTel's members demonstrates that this process is inherently prone to error.

5 *See Application of Bell Atlantic New York et al.*, CC Docket No. 99-295, LaCouture/Troy Decl. (describing "as is" migration option).

processed without the other orders, the opposite often occurs. Burk Aff., ¶ 13. In these cases, some problem with the "N" or "C" order causes them either to be delayed or rejected, yet the corresponding "D" order is not held. As a result, the customer is taken out of service completely, and left in a "no man's land" where *neither* SWBT nor the CLEC provide service to them. *Id.*[6] Despite SWBT's use of "field identifiers" intended to relate the three orders to each other, the experience of other CLECs in Texas confirms Network Intelligence's experience that these orders often become disassociated with each other. CLECs have complained about SWBT's 3-step process since the initial Hearing on the Merits held in April 1998. In addition, CompTel member Birch Telecom of Texas Ltd., L.L.P., filed a complaint with the Texas PUC in September 1999 giving examples of problems with the same process SWBT relies upon in this Application.[7]

A second type of service disruption is more prevalent, and more pernicious. As mentioned above, one of the three orders created by SWBT is a "new" or "N" order, instructing its systems to install new service at the location. The "N" order is processed based upon the information presented in the CLEC's LSR. *See* Burk Aff., ¶ 15. Most CLECs base this LSR on information contained in the subscriber's customer service record ("CSR") maintained by and

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6 This problem is exacerbated by SWBT's refusal to accept trouble tickets for these orders. Unless the "C" order has been posted as complete in the system, SWBT will not accept an automated trouble ticket on the order. Moreover, although SWBT claims to the contrary, its Local Operations Center ("LOC") has instructed CLECs that they will not open a trouble ticket, and that the CLEC must deal with its Local Service Center Account Team to address any concerns with the order. The LOC's refusal to accept a trouble ticket places CLECs in the untenable position of being helpless to assist their customers through the conversion process. *See* Burk Aff. ¶ 14.

7 *See* Informal Complaint of Birch Telecom of Texas Ltd., L.L.P. Against Southwestern Bell Telephone, *In re Informal Dispute Resolution for Issues Relating to Operational Support Systems*, Public Utility Commission of Texas, filed Sep. 7, 1999. CompTel understands that Birch will be filing comments in this docket together with several other CLECs operating in Texas.

obtained from SWBT. The CSR is supposed to contain all relevant information about a customer's service, so that a CLEC will know all of the services the customer receives, as well as the technical details necessary for the CLEC to establish service. Unfortunately, the CSRs typically do not contain complete or accurate information about a customer's service arrangements. *See id.* Errors and omissions are especially prevalent with services such as ISDN, PBX trunks and any service configurations containing "hunt groups" for forwarding calls to particular lines. *See id.*

Because SWBT disconnects the existing service prior to initiating the "N" order, SWBT often installs service that does not match the customer's previous service. This has caused customers' presubscribed intraLATA carriers to be replaced with SWBT in some cases, and has resulted in customers to be unable to receive incoming calls properly in others. Further, in several cases in San Antonio, this caused customers to be unable to dial local exchanges associated with a large, San Antonio-based insurance company with a significant customer base in Texas' military community. *Id.*, ¶ 26.

These disruptions are neither isolated nor rare. In Network Intelligence's experience, 14 percent of its UNE Combo orders have been disrupted in one way or another due to errors caused by SWBT's 3-step process.[8] Moreover, as mentioned above, Birch Telecom filed a complaint with the Texas Commission due to the prevalence of these problems on its orders.

To compound these harms, SWBT actively solicits its former customers (and the CLEC's new customers) with "winback" materials that rely on customer dissatisfaction as a reason to

[8] *See* Burk Aff., ¶ 21. In many instances, it can take days or weeks to identify the problem and to rule out other possible causes. *See id.*, ¶ 18. As a result, many problems will be reported after the time period tracked in SWBT's performance monitoring. *See* Dysart Aff., Att. A, PM 35 (% trouble tickets within 10 days).

switch back to SWBT. Burk Aff., ¶ 23. SWBT's winback marketing prominently declares "If your company hasn't seen the service the other guys promised, MAYBE IT'S TIME TO JUMP BACK OVER THE FENCE." *Id.* Capitalizing on the very dissatisfaction that its process engenders, SWBT declares that it "is better able to provide [you] with a total communications package ..." and that its "customer service representatives and service technicians are the best in the field." *Id.* Of course, since many of SWBT's failures are not visible to the customer, this marketing allows SWBT to undermine its competitors through poor UNE provisioning.

III. SWBT UNREASONABLY DELAYS PROVISIONING OF LOCAL INTERCONNECTION TRUNKS

Checklist Item 1 requires SWBT to provide "interconnection in accordance with the requirements of Sections 251(c)(2) and 252(d)(1)." 47 U.S.C. § 271(c)(2)(B)(i). This requirement obligates a BOC to provide interconnection that is "at least equal in quality to that provided by the local exchange carrier to itself." *See, e.g., Bell Atlantic New York Order*, ¶ 63. "Equal in quality" requires the BOC to meet the same technical criteria and standards employed for the BOC's own interoffice trunks, including such criteria as the installation time for providing trunks, trunk blockage statistics, and trouble reports for interconnection trunks. *See id.*, ¶¶ 64-66.

As shown below, SWBT is not meeting these standards with respect to local interconnection trunks it provides to requesting carriers. SWBT acknowledges in its own Application that it is experiencing significant problems installing interconnection trunks in the Houston area, and that it had experienced similar problems earlier in 1999. *See* SWBT Brief at 79; Deere Aff., ¶¶ 549-59. Although SWBT claims the problems are isolated and are being resolved, CLECs in Texas routinely experience significant trunking delays in other parts of the

state as well. *See* Affidavit of Mitch Elliott of NTS Communications, Inc. ("Elliott Aff.") (appended hereto as Exhibit C); Thompson Aff., ¶ 8.

First, a principal source of delay in obtaining local interconnection trunks occurs at the outset of the process, before SWBT officially counts a CLEC's request as an order. Before a CLEC can submit an order for an interconnection trunk, it must schedule an initial planning meeting with SWBT. *See* Elliott Aff., ¶¶ 11, 14; Thompson Aff., ¶¶ 8, 10. After the initial planning meeting, SWBT must prepare a Service Planning Document. The Service Planning Document essentially is a PowerPoint presentation summarizing the requirements specified by the CLEC, and it serves as the baseline for an application for local interconnection trunking. *See* Elliott Aff., ¶ 14; Thompson Aff., ¶ 10.

Unfortunately, SWBT often takes 30 days or more after the planning meetings to provide the Service Planning Document. *See* Elliott Aff., ¶ 15; Thompson Aff., ¶ 11. This delay unreasonably delays a CLEC's ability to obtain interconnection trunks. Moreover, because a CLEC cannot order service without this document, SWBT's delay precludes a CLEC from proceeding with its interconnection request. *See id.* Notably, Bell Atlantic-New York does not include an unaccounted initial planning meeting nor a Service Planning Document as a precursor to trunk ordering. See Bell Atlantic CLEC Handbook, Section 8.3. Arguably, if such an obstacle—one not tracked by performance metrics—was to have been presented by Bell Atlantic in its 271 Application, it would certainly have met with resistance from the New York Commission as well as the FCC.

Second, SWBT often delays orders for interconnection trunks due to a "lack of facilities." For example, CompTel member NTS Communications received a "lack of facilities" response on *all* of its orders submitted in December 1999 for interconnection trunks in Amarillo, Texas.

Elliott Aff., ¶ 16. CapRock too experienced SWBT's claims of lack of available facilities, state-wide. *See* Thompson Aff., ¶¶ 14-16. CLECs receive a claim of a lack of facilities even if they have accurately forecasted their local trunking requirements in advance, per SWBT's procedures. *See* Elliott Aff., ¶ 16 (reporting that 100% of orders submitted in December 1999 were denied due to a lack of facilities, even though NTS had forecasted its trunking needs as requested); Thompson Aff. ¶ 16.[9] Importantly, CapRock is *not* experiencing significant instances of a claimed lack of facilities for interexchange trunks at the same end office location where a lack of local interconnection trunks is being claimed. Thompson Aff., ¶ 17.

SWBT has acknowledged deficiencies in its ability to provide interconnection trunks. However, it has claimed that its failures were confined to one area in Texas, and has suggested that even there, the problem resulted from a CLEC's failure to forecast its demand. These claims are belied by the experience of NTS [and CapRock] which have experienced "lack of facilities" delays in parts of Texas other than Houston, and have experienced these delays even when their forecasts were timely and accurate. In addition, because some of SWBT's other delays occur *before* the CLEC's "order" (such as its failure to provide a Service Planning Document), its true performance is not captured in SWBT's performance measurements of its provisioning intervals for local interconnection trunks. Accordingly, SWBT's performance reports do not completely describe the experience of CLECs obtaining interconnection trunks in Texas.

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[9] Furthermore, in many cases, CLECs do not receive timely confirmation of their service order. Per SWBT's Guidelines for Local Interconnection, CLECs should receive a FOC within 24 hours of receiving a complete and accurate Access Service Request (ASR) for DS1's/DS3's. Failure to receive a timely FOC often forces the CLEC to supplement the order to delay the requested installation date, which negatively impacts the carrier and can be masked in the BOC's performance reports. *See* Elliott Aff., ¶ 13.

IV. SWBT DOES NOT PROCESS HOT CUTS IN A MANNER THAT PROVIDES A MEANINGFUL OPPORTUNITY TO COMPETE

In order to satisfy Item 4 of the Competitive Checklist, SWBT must fully demonstrate to the Commission that it provides non-discriminatory access to unbundled local loop facilities. As such, SWBT must demonstrate not only that it understands this obligation, but is currently meeting this obligation in "quantities that competitors reasonably demand and at an acceptable level of quality." *See Bell Atlantic New York Order*, ¶ 269. Inclusive of this obligation is a requirement to transfer control of loops that are serving SWBT customers to the control of a CLEC, at the customer's request. This is accomplished by a manual disconnection and reconnection of the loop and an accompanying software change at the SWBT and CLEC switches.

Presently, SWBT provides for two methods of conducting this transfer or "cutover": the Coordinated Cutover and Frame Due Time ("FDT") processes. To monitor SWBT's performance of unbundled loop transfers, SWBT has established two performance metrics regarding cutovers. *See* Dysart Aff., Att. A, p. 137-38. The first cutover metric measures the percent of transfers that occur prior to the schedule agreed by SWBT and the CLEC (premature cutover or "PM 114"). The second metric measures the percent of cutovers that exceed the allowable window of downtime created by the disconnection of the loop for the transfer (time delays or "PM 115").

When SWBT submitted its Application, it claimed, barring some deviations, to be meeting the benchmarks established in the above-mentioned performance measures. *See, e.g.*, Dysart Aff., Att. R, p. 29. Notably, however, the SWBT data examined only Coordinated Cutovers and was void of any data pertaining to cutovers made under the FDT process. As a

result of inquiry by the FCC staff, SWBT recently produced additional data addressing FDT.[10] In this submission, SWBT addresses certain hot cut issues, including: the addition of FDT measurements and recording the exact amount of downtime associated with each cutover in SWBT future performance metrics; identifying the percentage for which the cutover processes accounts in total loop provisioning by SWBT; and addressing the issue of cutovers from CLEC service to SWBT. In this late-filed addendum to the Application, SWBT took steps to cover some of the holes in its record on cutovers, but they were too little, too late.

First, in recognition of its previous exclusion of FDT cutovers, SWBT pledged to add FDT performance data to PMs 114 and 115 to show Coordinated Cutovers and FDT as separate processes beginning in February 2000. CompTel supports these amendments of the cutover performance measures, but notes that such evaluation of SWBT's FDT processing performance beginning next month does not allow the Commission to evaluate SWBT's performance in this critical area to date. Commission reliance upon promises of future recordation, and arguably, an implicit promise of future performance, violates the requirement that a BOC demonstrate that it "is providing" each of the enumerated items in the Competitive Checklist.[11] Further, in the recent *UNE Remand Order*, the Commission concluded that obstacles to the hot cut process clearly impair the ability of competitors to provide timely service, stating that "incumbent LEC promises of future hot cut performance [are] insufficient to support a Commission finding that the coordinated loop cutover process does not impair the ability of a requesting carrier." *UNE*

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10 *See* Letter from Pricilla Hill-Ardoin, Sr. VP SBC, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 00-4 (filed Jan. 21, 2000) (SBC Jan. 21 *Ex Parte*).

11 *See, e.g., Application of BellSouth Corporation, et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, Memorandum Opinion and Order, 13 FCC Rcd 539, ¶ 78 (1997) ("*BellSouth South Carolina Order*").

Remand Order, ¶ 271.

Second, after admitting that late-1999 performance recordation is suspect due to "varying proficiency levels among technicians responsible for recordation of this information," SWBT claims that it will implement a second level of review to PM 114 by measuring the time between the disconnection from SWBT's switching facilities and reconnection to those of the requesting CLEC (actual delay measurement or "PM 114.1").[12] CompTel notes that the actual delay measurement proposed by SWBT does not address whether service on the reconnected loop is being provided at the same level of quality as before the disconnection.

The new data, however, underscores the importance of FDT cutovers to CLECs. In its *ex parte*, SWBT reported a tremendous increase in the number of cutovers requested by CLECs under the FDT process, from 653 FDT cutovers in November 1999 to 1666 FDT cutovers in December 1999.[13] Moreover, it appears that the FDT process holds promise for reducing a significant cause of customer dissatisfaction: the length of time during the cutover that the customer is taken out of service. In the December 1999 data revealed in the *Ex Parte*, SWBT stated that 90.2% of its FDT cutovers were performed in 30 minutes or less, while only 51% of the Coordinated Cutovers could meet the same standard.

The experiences of CompTel members in Texas run contrary to claims made by SWBT in its Application and late-filed addendum. CompTel members do not find the FDT cutover process currently provides them with a meaningful opportunity to compete against the Texas

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12 Originally, SWBT promised to include this metric in its January 2000 performance measurements. See Dysart Aff., ¶ 659. Now it seems, in accordance with SWBT's most recent submission, that the performance data for PMs 114, 114.1, and 115, including the FDT data, will not be available until March 2000. *See* January 21, 2000 Ex Parte ¶ 1.

13 The other cutover process – "coordinated hot cuts" – showed a significant decline between these two months, from 2375 in November to 1284 in December.

incumbent. For example, per its agreement and SWBT's ordering procedures, NTS Communications requested the provisioning of unbundled loops using the FDT process. Despite the use of this agreed upon format for coordinating cuts, SWBT did not follow its coordinating procedures on as much as *30 percent* (30%) of NTS's loop orders processed between October and December 1999. *See* Elliott Aff., ¶ 21. Most often, NTS found that SWBT cutover the customer's service one or more days in advance of the designated frame due time. *See id.*, ¶ 22. CapRock similarly reported significant mis-coordination of FDT cutovers. Thompson Aff., ¶¶ 18-21. CapRock claims that "SWBT does not follow its coordinated procedures" and "frequently cuts over . . . in advance of the designated frame due time." *See id.*, ¶ 19. These early cutovers significantly impaired NTS's ability to provide quality service to its customers.

NTS and CapRock customers experienced the quality degradations in two ways. First, the premature cutovers often occurred prior to the provisioning of related changes necessary for NTS to provide service, including the provision of local number portability. *See* Elliot Aff. ¶ 22; Thompson Aff. ¶ 20. As a result, their new customers were unable to receive calls to their "old"/SWBT telephone numbers. Second, these premature cutovers often occurred before the CLEC had completed installation and testing of *its* facilities, which were necessary to provide the requested service to the customer. *See* Elliot Aff. ¶ 22; Thompson Aff. ¶ 20. Moreover, because the CLECs were expecting a cutover to occur at the time they had designated, the CLEC was not expecting to serve its customer when SWBT cutover his service. As a result, the customers were "out of service" for one or more days before the CLEC's service was established.

SWBT's unacceptably poor performance regarding the FDT cutovers has reduced the volumes of orders NTS was capable of processing, and thus inhibited NTS's ability to compete

effectively with SWBT. *See* Elliot Aff. ¶ 23; *see also* Thompson Aff. ¶ 21 (attesting to competitive harms caused to CapRock due to SWBT's deficiencies). NTS has turned away customers or been forced to arrange longer installation time periods in order to compensate for SWBT's inability to provide UNE loops as required. As a result of SWBT's inability to correctly provision UNE cuts, NTS is able to submit only about *one-half* the order volumes that NTS could handle if SWBT's performance regarding FDT cutovers was at the level it claims in its performance report. *See* Elliot Aff. ¶ 23. This forced reduction in volume has delayed the pace of NTS's entry in the Texas local telecommunications market, and ultimately harmed NTS's ability to compete with SWBT.

The Commission has held that, because there is no retail equivalent to a cutover, a BOC must demonstrate that it provides unbundled loops through cutovers in a manner that offers an efficient competitor a meaningful opportunity to compete. *See Bell Atlantic New York Order*, ¶ 291. The Commission has also held that when it evaluates a Bell operating company regarding its performance of Checklist Item 4, the Commission will not focus on any one metric but rather look to the totality of the provisioning of unbundled loops to gain a "comprehensive picture" of performance. *See id.* ¶ 278.

As such, CompTel respectfully submits that the Commission cannot obtain a comprehensive picture without fully considering SWBT's failures to implement FDT cutovers. Without a demonstration that SWBT is presently conducting FDT cutovers in a manner that provides CompTel members such as NTS and CapRock, and other CLECs, a meaningful opportunity to compete in Texas, the Commission should not approve the application. Only with this information, may the Commission gain the comprehensive picture it needs to evaluate

SWBT's nondiscriminatory provisioning of unbundled local loops.

V. THE COMMISSION SHOULD ADOPT A VIGOROUS ENFORCEMENT PLAN AS A CONDITION TO ANY ORDER APPROVING THE APPLICATION

In the *Bell Atlantic New York Order*, the Commission emphasized that, "Swift and effective post-approval enforcement of Section 271's requirements . . . is essential to achieve Congress' goal of maintaining conditions conducive to achieving durable competition in local markets." *Bell Atlantic New York Order*, ¶ 446. This enforcement must be sufficient to ensure that "a BOC will continue to cooperate with new entrants, even after it is authorized to provide in-region, interLATA services." *Ameritech Michigan Order*, ¶ 394. The Commission stressed that it has substantial powers to carry out this post-entry enforcement, including authority to suspend or revoke Section 271 approval if necessary. *Id.*, ¶¶ 447-49.[14] CompTel applauds the Commission's concern for post-entry enforcement of the Act, but respectfully submits that the Commission has not gone far enough to ensure that enforcement will be swift or effective. Therefore, CompTel urges the Commission to use its authority to adopt conditions ensuring that any decline in SWBT's performance once Section 271 is fully satisfied can be remedied through predictable and sufficient enforcement mechanisms.

In approving Bell Atlantic's New York application, the Commission cautioned that "*any diminution* in performance below levels deemed sufficient [to satisfy Section 271] may expose Bell Atlantic to possible enforcement action under Section 271(d)(6)." *Id.*, ¶ 451

[14] There can be no doubt that the Commission has the statutory authority to impose enforcement conditions in the context of this application. As is summarized more fully in Exhibit D hereto, the Commission is authorized under Sections 271, 214, 303(r), 154(i) and 201(b) of the Act to impose enforcement conditions as part of its public interest analysis.

(emphasis added). In addition, the Commission made clear that Section 208 complaints are available to competing carriers to provide damages for a BOC's failure to meet Section 271's requirements. *Id.*, ¶ 452. The Commission provided little guidance, however, as to what conditions likely would be sufficient to invoke the Commission's enforcement powers, either on its own motion or via the complaint process.[15]

CompTel agrees with these statements, as far as they go. In its comments in the *Bell Atlantic* proceeding, CompTel urged the Commission to adopt a comprehensive federal enforcement blueprint addressing "self-enforcing" carrier-to-carrier remedies, agency initiated enforcement and carrier-initiated enforcement proceedings. Although the Commission has correctly emphasized the importance of these three mechanisms for consumers and competition alike, it can do more to ensure that enforcement mechanisms meets these articulated goals. For enforcement to be swift and effective, as the Commission desires, it must also contain an additional element not included in the Commission's *Bell Atlantic New York* enforcement discussion: *predictability*. As the Commission commented in other 271 orders, local competition cannot develop or continue as envisioned in the Act if new entrants are forced "to engage in protracted and contentious legal proceedings to enforce their contractual and statutory rights to obtain necessary inputs from the incumbent." *Ameritech Michigan Order*, ¶ 394. Accordingly, the Commission should establish mechanisms which are as specific and predictable as possible. Although enforcement discretion necessarily must be retained, the Commission can identify certain situations in which it is likely to take action or certain evidence it is likely to find

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15 Nor did the FCC's announcement of an "anti-backsliding" team identify situations where the Commission would take action. *See* Public Notice, Enforcement Team Created to guard Against "Backsliding" on Competition Requirements, DA 00-27 (rel. Jan. 10, 2000).

persuasive without compromising its flexibility. Such additional information will promote settlement by giving the parties clear guidance when resolving disputes and by making it less likely that enforcement can be tied up in protracted litigation.

Thus CompTel submits that any order approving SWBT's Application should articulate for *all* enforcement mechanisms some minimum situations in which enforcement is likely. Specifically, CompTel believes that post-entry enforcement should include a *federal* performance monitoring plan (with penalties to CLECs), a non-exhaustive list of circumstances likely to lead to suspension of authority or large monetary penalties, and specific presumptions or elements of proof that may be used in carrier-initiated complaint proceedings.

The Commission has already acknowledged that enforcement conditions are appropriate in the context of approving the SBC/Ameritech merger.[16] Those conditions expressly were not deemed sufficient to satisfy Section 271 concerns, however.[17] Therefore, the Commission should develop a federal enforcement plan to encompass Section 271's requirements. This plan should at a minimum provide damages payable directly to CLECs for such violations. As for agency-initiated and carrier-initiated enforcement, the Commission should provide more specific guidance as to instances where it is likely to use its powers to facilitate swift and effective enforcement. This added predictability will assist parties in identifying improper behavior and will provide CLECs with effective remedies without expensive and protracted litigation.

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16 Application of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, Memorandum Opinion and Order, FCC 99-279, ¶¶ 348-49 (rel. Oct. 8, 1999).

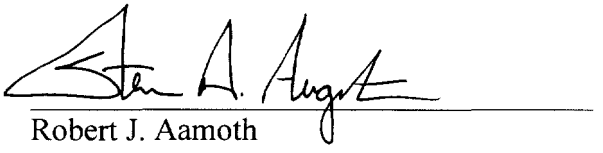
17 *Id.*, ¶ 357 ("the Carrier-to-Carrier Performance Plan is not meant to substitute for any enforcement mechanisms that the Commission may adopt in the Section 271 context (*i.e.*, anti-backsliding measures)").

CONCLUSION

For the foregoing reasons, SBC's application does not satisfy the standards of Section 271. Therefore, the Commission is unable to make the findings required under Section 271(d)(3), and must deny the Application.

Respectfully submitted,

COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

By: 

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DATED: January 31, 2000

CERTIFICATE OF SERVICE

I, Rosemary Jordan, hereby certify that a true and correct copy of the foregoing **Comments** on behalf of the Competitive Telecommunications Association was delivered by first class mail or by hand delivery this 31st day of January 2000, to the individuals on the following list:

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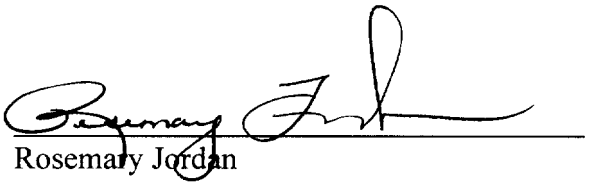

Rosemary Jordan

* By hand delivery

Exhibit A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application of SBC Communications, Inc.	)	CC Docket No. 00-04
Pursuant to Section 271 of the	)	
Telecommunications Act of 1996	)	
To Provide In-Region, InterLATA Services	)	
In Texas	)	

AFFIDAVIT OF RICHARD E. BURK

1. My name is Richard E. Burk. My business address is 1717 North Loop 1604 East, Suite 120, San Antonio, TX 78232.

2. I am President and CEO of Network Intelligence, Inc. ("Network Intelligence").

3. Network Intelligence is a provider of business information infrastructure company. Network Intelligence provides local, long distance and international calling, as well as a full range of Internet services. Currently, Network Intelligence offers service principally in San Antonio, Amarillo and Lubbock, Texas.

4. Network Intelligence's cornerstone service is a product called "Simple Business."™ Simple Business is marketed to small and medium size business customers within Texas, and offers the customer a flat-fee package which includes:

   - All outbound long distance calls under 20 minutes
   - 100 minutes per line of inbound 800 calls

- All local service, including unlimited calls, and
- One free unlimited usage internet account.

5. Network Intelligence believes its products are most useful to small business customers (generally 1-15 lines). While our largest customer has 80 telephone lines, Network Intelligence's average customer has fewer than 5 lines. Network Intelligence principally offers its services using a combination of unbundled network elements commonly referred to as the "UNE Combination" or "UNE-Platform."

OVERVIEW AND PURPOSE OF THE AFFIDAVIT

6. I have been asked by the Competitive Telecommunications Association ("CompTel"), of which Network Intelligence is a member, to described my company's experiences obtaining wholesale products and services from Southwestern Bell Telephone Company ("SWBT") in Texas.

7. In this affidavit, I will address Network Intelligence's experiences in providing service using the UNE Combo network element. As will be explained below, Network Intelligence is not receiving nondiscriminatory access to pre-existing combinations of UNEs, as required under Section 251(c)(3) of the Act. In particular, SWBT's practice of denying "as is" UNE Combo conversions and instead utilizing a 3-step conversion process is inherently discriminatory and leads to significant customer disruptions. Because SWBT "tears down" the existing service configuration and reconstructs it in order to fulfill a CLEC's request, SWBT exposes

Network Intelligence's customers to potential service outages and to service that is inferior to what the customer had before switching local carriers.

8. Further, I will explain how SWBT's "tear down and reconstruct" approach impedes Network Intelligence's ability to compete with SWBT and discriminates against Network Intelligence by undermining our ability to offer the same level of service that SWBT offers to its own local customers. In particular, SWBT's policies have harmed Network Intelligence's reputation with its local service customers and caused it to lose customers and revenues as a result. This performance, and the impact of SWBT's deficiencies on Network Intelligence customers, are not reflected in SWBT's performance evidence presented in the Texas proceeding or this docket.

SWBT DOES NOT PROVISION THE UNE COMBO IN COMPLIANCE WITH SECTION 251(C)(3)

9. As explained above, Network Intelligence currently provides local service in San Antonio, Amarillo and Lubbock, Texas. Network Intelligence utilizes the UNE Combo as its principal means of providing this service to its customers. UNE Combo is available for a variety of services in Texas, including residential, single and multi-line business, PBX, and ISDN services.

10. Network Intelligence submits UNE Combo orders through SWBT's LEX system. For those orders that SWBT designates as "complex," however,

Network Intelligence is unable to use the LEX interface and must submit these orders manually. "Complex" orders as defined by SWBT include ISDN BRI services, PBX services, and "direct inward dial" ("DID") lines. SWBT does *not* permit an "as is" migration of either simple or complex services to UNE Combo.

11. Instead of converting the existing service in its existing configuration, SWBT imposes a 3-step "tear down and reconstruct" approach to UNE Combo conversions. Although Network Intelligence submits a single request for a UNE Combo for an existing service, SWBT separates this request into three separate orders. First, a "disconnect" (or "D") order is created, instructing SWBT's systems to disconnect the service presently installed at the location. Second, a "new" (or "N") order is created, instructing SWBT's systems to install new service to the location. The "N" order is installed per the information supplied by the CLEC on its Local Service Request ("LSR"), which is in turn populated with data obtained from the subscriber's customer service record ("CSR"). Finally, a "change" (or "C") order is created, instructing SWBT's system to modify the billing on the line to UNE billing.

12. As I understand the law, and as illustrated by our experience with this process, SWBT's separation of a UNE Combo into three orders is unlawfully discriminatory, in that it subjects Network Intelligence's customers to a variety of service disruptions and interruptions that SWBT's retail customers are not subject to. Indeed, although SWBT does

not physically separate a loop from the switch, it does so on a functional basis by deleting the existing switch programming associated with the line and replacing it with "new" service reconstructed according to the CLEC's service order. This process *disconnects* the existing service configuration (and the UNEs used to provide it), to be replaced with a *new* configuration established by the CLEC. Inherently, this approach exposes CLEC customers (but not SWBT's retail customers) to risks of error and disruption when obtaining service.

13. The disruptions arising from SWBT's 3-step "tear down and reconstruct" approach manifest themselves in several ways. First, although SWBT claims that its systems are designed to link these orders so that the disconnect (or "D") order is not processed without the other orders, Network Intelligence's experience is the opposite. In these cases, some problem with the "N" or "C" order causes them either to be delayed or rejected, yet the corresponding "D" order is not held. As a result, Network Intelligence's customers are taken out of service completely, and left in a "no man's land" where *neither* SWBT nor Network Intelligence provide service to them.

14. This problem is exacerbated by SWBT's refusal to accept trouble tickets for these orders through its OSS. Unless the "C" order has been posted as complete in the system, SWBT will not accept an automated trouble ticket on the order. Although SWBT claims that a manual ticket may be opened in this circumstance, that has not been our experience. Rather, SWBT's

Local Operations Center ("LOC") has instructed us that they will not open a trouble ticket, and that Network Intelligence must deal with its Local Service Center Account Team to address any concerns with orders being submitted. The LOC's refusal to accept a trouble ticket places Network Intelligence in the untenable position of being helpless to assist its customer through the conversion process. Indeed, customers are effectively placed in a "no man's land," unable to initiate a service request from either their old or new carriers.

15. A second type of service disruption is more prevalent, and more pernicious. As mentioned above, one of the three orders created by SWBT is a "new" or "N" order, instructing its systems to install new service at the location. The "N" order is processed based upon the information presented in the CLEC's LSR. Like most CLECs, prior to submitting an LSR, Network Intelligence orders a customer service record ("CSR") from SWBT. The CSR is supposed to contain all relevant information about a customer's service, so that a CLEC will know all of the services the customer receives, as well as the technical details necessary for the CLEC to establish service.

16. Unfortunately, Network Intelligence has found that the CSRs typically do not contain complete or accurate information about a customer's service arrangements. Errors and omissions are especially prevalent with services such as ISDN, PBX trunks and any service configurations deemed "complex" by SWBT.

17. Because SWBT disconnects the existing service prior to initiating the "N" order, errors in CSRs adversely impact the customer and Network Intelligence by installing service which does not match the service the customer previously had. Often, this results in services not functioning properly (e.g., certain telephone exchanges can no longer be called), if at all.

18. Sometimes it can take days or weeks to identify particular problems and to eliminate other possible causes from consideration.

19. Another common example of service problems arising from SWBT's "tear down and reconstruct" policy involves the loss of a customer's intraLATA PIC. We have found that many of our customers incorrectly had their choice of intraLATA toll carrier lost when the UNE Combo order is processed. In these situations, the customer's intraLATA calls are routed to SWBT by default, causing the customer inconvenience and depriving Network Intelligence of potential revenues.

20. Network Intelligence has brought these instances to the attention of its SWBT account team on several occasions. These problems have been raised for the past several months on Network Intelligence's weekly conference calls with its SWBT account team. SWBT's representatives have acknowledged multiple times that the root cause of the service outage is the separation of UNE Combo orders into three orders. Despite repeated promises by SWBT to look into the problem further, no improvements have occurred.

21. The persistence of these errors despite SWBT's procedures intended to prevent the problem demonstrate that the deficiency is fundamental to SWBT's three-step method of processing UNE Combo orders. These problems will continue to occur – and continue to relegate carriers using UNE Combo to sub-par performance – until SWBT modifies its systems to process UNE Combo orders "as is."

22. I have reviewed our records of orders submitted between May and December 1999. During this time, Network Intelligence submitted 620 orders for UNE Combos in Texas. 87 of these 620 orders (14%) experienced one or more of the disruptions described above. This level of disruption is far exceeds that which is acceptable. Indeed, since the 620 orders accounted for approximately 3,200 customer lines to be converted, the customer impact on a per line basis is even larger than described herein.

23. As a result of these disruptions, Network Intelligence has had to expend considerable time and effort to placate angry customers and to identify and correct errors. As a result, not only have Network Intelligence's own costs increased, but it has lost revenue from customers (for example, intraLATA toll revenues) and lost customers who have left due to problems in the conversion process.

24. To compound these harms, SWBT actively solicits its former customers (and my new customers) with "winback" materials that rely on customer dissatisfaction as a reason to switch back to SWBT. An example of these

solicitations is appended as Attachment A hereto. The Letter begins with a large banner declaring "If your company hasn't seen the service the other guys promised, MAYBE IT'S TIME TO JUMP BACK OVER THE FENCE." SWBT ominously warns that "you may think the other guys can provide the same level of service you came to expect from Southwestern Bell," and declares that SWBT "is better able to provide [you] with a total communications package ..." Moreover, capitalizing on policies which virtually guarantee that CLECs will not be able to convert customers smoothly and seamlessly, SWBT blames the CLEC and asserts that "our customer service representatives and service technicians are the best in the field." Of course, since many of SWBT's failures are not visible to the customer, this marketing allows SWBT to undermine its competitors through poor UNE provisioning.

25. In the following paragraphs, I provide two examples of customer-affecting problems which are the direct result of SWBT's discriminatory 3-step process for converting UNE Combo orders. These examples are by no means the only instances of the problems Network Intelligence has experienced, nor are they intended to stand alone . Rather, these examples illustrate that the problems with SWBT's UNE Combo provisioning are systemic, and will continue to affect CLEC customers until the systems are modified by SWBT to eliminate the disconnection of customers' service during UNE conversions.

26. First, Network Intelligence attempted to install ISDN BRI service to the corporate offices of one of its customers, Brake Check, Inc. Prior to submitting the order, Network Intelligence ordered the customer's CSR, and specified its ISDN service as listed on the CSR. In addition, fearing that this order may be too complex for SWBT to handle without warning, we held a coordination call with the LSC prior to submitting the order. On the day SWBT performed the service conversion, however, the customer completely lost dial tone and was unable to make or receive calls. Upon investigation SWBT told us that the reason the disruption occurred is that the service the customer had installed did not match the information contained on SWBT's CSR, but that, because the "D" order had been cut, SWBT no longer could restore the prior service. Ultimately, partial service was established the next day, but it took nearly three weeks to install service as it had worked previously.

27. Second, customers in Network Intelligence's San Antonio market repeatedly have been unable to dial telephone numbers associated with USAA Insurance, a large insurance company based in San Antonio. Customers are unable to dial USAA numbers beginning with the NPA-NXX 210-498 or 210-456. Upon investigation of these incidents, we have discovered that the routing instructions associated with the UNE Combo order did not include the USAA exchanges. As a result, the switch could not route calls to these exchanges, and the customer received a recorded message that the call could not be completed. Despite the fact that we

originally identified this problem in July 1999, Network Intelligence continued to experience these outages for other customer lines through September. On several occasions, service to the customer was corrected, only to see the same problem re-occur two weeks later.

28. Further, once dialing to these two exchanges was re-established, these customers again experienced an outage in November 1999, when USAA added a new exchange to its service. Although SWBT updated its own routing instructions, it did not do the same for the routing instructions associated with UNE Combo orders. Network Intelligence was forced to go through the same process to correct the dialing problem for a second time.

29. This concludes my affidavit.

Executed this 31th day of January, 2000

Richard E. Burk

SWORN TO and subscribed before me this 31th day of January, 2000

Notary Public

BEATRICE BEDIARZ
Notary Public, State of Texas
My Comm. Exp. 08/22/01

My Commission expires: 8/22/01

Southwestern Bell

If your company hasn't seen the service the other guys promised,

MAYBE IT'S TIME TO JUMP BACK OVER THE FENCE.

Network Intelligncc
1717 N. Loop 1604 E. Ste 120
San Antonio, TX 78232-1553

Dear Business Customer,

I'd like to share some information with you: After spending just a couple of months, sometimes less, with our competitors, many businesses return to our local phone service every month. Surprised? I'm not and I'll tell you why.

When a local market opens up to competition, you may automatically think the other guys can provide the same level of service you came to expect from Southwestern Bell. It's the old "grass is greener" adage. In this case, businesses are finding out that the grass — and the service — aren't always greener. If they really want the best value, they come back to Southwestern Bell.

Come back to Southwestern Bell and save some green.

For the last few months, we've been busy developing a variety of savings packages for businesses like yours. For example, Southwestern Bell just introduced 1+ savings plans that save your business up to 20% on your 1+ dialing. And there are other ways to save too. Just call 1-888-659-1011 or visit our website at www.swbell.com to find out how you can save on your business' telecommunication needs.

Get the service and advanced technology of the leading telecommunications company.

Sure you can save with Southwestern Bell, but maybe more important, you get the industry's best network and people. Returning businesses tell us that Southwestern Bell is better able to provide them with a total communications package, offering the best in voice, data and Internet solutions. We're also hearing that our customer service representatives and service technicians are the best in the field.

It's easy to jump back to Southwestern Bell. Just call 1-888-659-1011 today.

Southwestern Bell has special offers for returning customers like you. All it takes is a phone call. Just call us today, and we'll put together the best deal for your business based on the telecommunications services you use. Now that's worth a look back over the fence.

Sincerely,

Angela Tattini

Angela Tattini
Director - Product Management

P.S. You can have the industry's best service and savings right in your own backyard with Southwestern Bell. Come back today by calling 1-888-659-1011.

Here's What Returning Customers Are Saying:

"I didn't realize what a high level of service Southwestern Bell offers until I experienced the other guys."

"Southwestern Bell is a better value. I can get voice, data and Internet solutions in one complete communications package."

"Everything appeared to be going fine, until one day when I needed a simple service issue taken care of. The customer rep didn't even know what I was talking about."

Exhibit B